

Yasuhiro Saito, Esq.
 Rose Auslander, Esq.
 Pamela Shelinsky, Esq.
 Carter Ledyard & Milburn LLP
 2 Wall Street
 New York, New York 10005
 (212) 732-3200

Attorneys for Members of the Japan P.E.N. Club, Takashi Atouda, Jiro Asada, Takeaki Hori, Shinobu Yoshioka, Kenta Yamada, Tomotsuyo Aizawa, Yu Ohara, Yasumasa Kiyohara, Takashi Tsujii, Akira Nogami, Hiroyuki Shinoda, Toshihiko Yuasa, Hidehiko Nakanishi, Yashio Uemura, Nobuo Uda, and Tsukasa Yoshida
Members of Proposed Author Sub-Class

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

The Authors Guild, Inc., et al.,	:	Case No. 05 CV 8136 (DC)
Plaintiffs,	:	OBJECTION TO THE AMENDED
v.	:	PROPOSED SETTLEMENT BY
Google, Inc.,	:	MEMBERS OF JAPAN P.E.N.
Defendant.	:	CLUB, TAKASHI ATOUDA, JIRO
	:	ASADA, TAKEAKI HORI,
	:	SHINOBU YOSHIOKA, KENTA
	:	YAMADA, TOMOTSYO,
	:	AIZAWA, YU OHARA, YASUMASA
	:	KIYOHARA, TAKASHI TSUJII,
	:	AKIRA NOGAMI, HIROYUKI
	:	SHINODA, TOSHIHIKO YUASA,
	:	HIDEHIKO NAKANISHI, YASHIO
	:	UEMURA, AND NOBUO UDA,
	:	TSUKASA YOSHIDA
	:	
	:	

INTRODUCTION

Sixteen Japanese authors, who are also the leaders and key committee members of the Japan P.E.N. Club, through their undersigned attorneys, file this objection to the amended proposed settlement agreement. The reasons for their opposition to the amended settlement are set forth in further detail in the Japan P.E.N. Club's *amicus curiae* brief, also filed today.

FACTUAL BACKGROUND

A. Objecting Parties

This objection is brought on behalf of 16 Japanese authors, who are also the leaders and key committee members of the Japan P.E.N. Club. They include some of the most-respected and best-known authors in Japan, and are prominent names in Japan's publishing world.¹

B. Previously Filed Objection

On September 8, 2009, 22 Japanese authors -- including the 16 authors bringing the current objection -- filed an objection to the original proposed settlement. That objection still stands. The current objection is directed toward the problems in the amended settlement.

C. Separately-filed Japan P.E.N.'s *Amicus* Brief

Simultaneously with this objection, the Japan P.E.N. Club is filing an *amicus* brief addressing the issues in the amended settlement, including the overall implication and broader policy concerns, as seen from the writers and rightsholders in Japan.

¹ The objecting parties are: Takashi Atouda (President, the Japan P.E.N. Club); Jiro Asada (Managing Director); Takeaki Hori (Executive Director); Shinobu Yoshioka (Executive Director); Kenta Yamada (Director; Chairperson, Freedom of Expression Committee); Tomotsuyo Aizawa (Director); Yu Ohara (Director); Yasumasa Kiyohara (Director); Takashi Tsujii (Director); Akira Nogami (Director); Hiroyuki Shinoda (Member, Freedom of Expression Committee); Toshihiko Yuasa (same); Hidehiko Nakanishi (same); Yashio Uemura (same); Nobuo Uda (same); and Tsukasa Yoshida (same).

ARGUMENT

The objecting parties join the statements in the *amicus* brief filed today by Japan P.E.N. Club for opposing the amended proposed settlement. We respectfully refer this Court to the Japan P.E.N. Club's *amicus* brief for more detailed statement of objection.

Removing a large portion of foreign writers from the scope of the settlement does not address the settlement agreement's fundamental flaws. A great many foreign writers are still left within the settlement, the defects of which remain largely uncorrected.

The amended settlement fails to address the key concerns raised by Japanese writers. The notice remains defective, and no Japanese translation of the settlement agreement has been provided to date. Moreover, the class definition remains vague and unmanageable. And the continued and consistent disregard of and disrespect toward the interests and concerns of Japanese writers and rightsholders by Google and the settlement proponents demonstrates the lack of adequate representation provided to the foreign rightsholders.

CONCLUSION

For the foregoing and other reasons stated in the Japan P.E.N. Club's *amicus* brief filed today, the named Japanese writers respectfully request that this Court reject the amended proposed settlement and/or decline to certify the class with respect to Japanese and other foreign rightsholders.

Dated: New York, New York
January 28, 2010

Respectfully submitted,

CARTER LEDYARD & MILBURN LLP

By: 

Yasuhiro Saito, Esq.
Rose Auslander, Esq.
Pamela Shelinsky, Esq.

2 Wall Street
New York, New York 10005
Tel: (212) 238-8614
Fax: (212) 732-3232

*Attorneys for Members of the Japan P.E.N.
Club, Takashi Atouda, Jiro Asada, Takeaki Hori,
Shinobu Yoshioka, Kenta Yamada, Tomotsuyo
Aizawa, Yu Ohara, Yasumasa Kiyohara, Takashi
Tsujii, Akira Nogami, Hiroyuki Shinoda,
Toshihiko Yuasa, Hidehiko Nakanishi, Yashio
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